REMARKS

Claims 35-67 were pending in this Application as of the Office Action of April 25, 2008. Claims 47,48, 50, 52, 60, 67, and 68 are cancelled with this Response, and claims 35, 37-40, 45, 51, 56, and 61 are amended with this Response.

Objections to the Claims

The claims are objected to for various informalities. In response, Applicant respectfully amends the claims as shown above.

Rejections under 35 U.S.C. §112, second and fourth paragraphs

Claims 37-39, 45, 52, and 60 are rejected under 35 U.S.C. §112, second and fourth paragraphs for being variously indefinite and not further limiting. In response, Applicant respectfully amends the claims, and cancels claims 52 and 60, which were deemed to not be further limiting over the independent claims.

Rejections under 35 U.S.C. §102(b)

Claims 35-40, 43, 44, 46, 47, 50-54, 56, 57, and 59-65 have been rejected under 35 U.S.C. §102(b) as being anticipated by WO 00/77447 to Masotti ("Masotti" hereinafter). Applicant respectfully traverses this rejection.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Applicant's claims 35 and 56 recite *inter alia*:

"wherein at least two light field regions arranged at an angle to one another cross within the access area, and

wherein each light field region comprises at least two light fields which are arranged one behind the other in a direction of motion of the body."

Masotti does not teach light fields that are provided one behind the other and cross within the access area. Instead, referring to page 11, lines 9-29, Masotti teaches optical bar elements comprising a source bar and receiving bar that are arranged at corners of a controlled volume, which may allow for the light fields to be interpreted to include an intersection at the optical bar element, but is not illustrative of light fields that cross within the access area, as is recited by Applicant's claims 35 and 56.

In addition, Applicant respectfully notes that the "one behind the other" arrangement, which allows light field regions to cross within the access area, as recited in Applicant's claims will further allow Applicant's device to detect a number of persons traversing the access area. The Masotti arrangement discussed above (i.e. optical bar elements comprising a source bar and receiving bar that are arranged at corners of a controlled volume) would not allow for such a detection of the number of persons. Moreover, Masotti (at the paragraph bridging pages 13 and 14) teaches that shadowing allows for determination of object size, but such shadowing would not sufficiently allow for a determination of the number of objects in that area, as would be possible with Applicant's recited configuration.

For at least the above reasons, Applicant respectfully submits that Masotti does not teach every element of Applicant's claims 35 and 56, or claims 36-40, 43, 44, 46, 47, 50-54, 57, and 59-65 that depend therefrom. Thus, Applicant's claims 35-40, 43, 44, 46, 47, 50-54, 56, 57, and 59-65 are not anticipated by Masotti.

Rejections under 35 U.S.C. §103(a)

Claims 41-43 45, 48, 49, 55, 58 66, and 67 have been variously rejected under 35 U.S.C. §103(a) as being obvious over Masotti and Masotti in view of United States Publication No. 2004/0135072 to Huff ("Huff" hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or

combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Claims 41-43 45, 48, 49, 55, 58 66, and 67 depend from claims 35 and 56. As such, for at least the reasons set forth in the 102 remarks above, Applicant respectfully asserts that Masotti does not teach every element of Applicants claims 41-43 45, 48, 49, 55, 58 66, and 67. Accordingly, as Huff does not remedy the deficiencies of Masotti as they apply to claims 35 and 56, no modification of Masotti, or proposed combination of Masotti with Huff teach every element of Applicant's claims 41-43 45, 48, 49, 55, 58 66, and 67. Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claims 41-43 45, 48, 49, 55, 58 66, and 67 with respect to Masotti, or proposed combination of Masotti with Huff. Since Masotti, or proposed combination of Masotti with Huff fails to teach or suggest all of the limitations of claims 41-43 45, 48, 49, 55, 58 66, and 67, clearly, one of ordinary skill at the time of Applicant's invention would not have a motivation to modify or combine the references, or a reasonable likelihood of success in forming the claimed invention by modifying or combining. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Conclusion

Applicant believes that all of the outstanding objections and rejections have been addressed herein and are now overcome. Entry and consideration hereof and issuance of a Notice of Allowance are respectfully requested.

Applicant hereby petitions for any extension of time under 37 C.F.R. 1.136(a) or 1.136(b) that may be necessary for entry and consideration of the present Reply.

If there are any charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorneys.

The Office is invited to contact applicant's attorneys at the below-listed telephone number concerning this Amendment or otherwise regarding the present application.

Respectfully submitted,

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